

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the matter of:

Jurisdictional Separations and
Referral
to the Federal-State Joint Board

CC Docket No. 80-286

**REPLY COMMENTS OF THE CALIFORNIA PUBLIC UTILITIES
COMMISSION AND OF THE PEOPLE OF THE STATE OF
CALIFORNIA ON THE FURTHER NOTICE OF PROPOSED
RULEMAKING REGARDING SEPARATIONS**

I. INTRODUCTION

The California Public Utilities Commission and the People of the State of California (California or CPUC) submit these Reply Comments to the Federal Communications Commission (FCC or Commission) on its Further Notice of Proposed Rulemaking (*FNPRM*) regarding reform of the jurisdictional separations process, released on May 16, 2006.¹ The CPUC files these Reply Comments on the narrow issue of whether the draft data request proposed by the State Members (State Members) of the Federal-State

¹ *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Order and Further Notice of Proposed Rulemaking, FCC 06-70 (rel. May 16, 2006) (*FNPRM*).

Joint Board (Joint Board), and attached to the *FNPRM* as Appendix C, should be sent to carriers.²

² *FNPRM*, Appendix C (Draft Data Request).

II. DISCUSSION

The draft data request seeks information on the issues of unbundled network elements (UNEs), wholesale services, local interconnection, DSL, special access, and bundled packages.³ The FCC has described the data request as “a one-time data collection designed to assist the [FCC] in evaluating whether to modify its rules pertaining to jurisdictional separations, specifically, the Part 36 category relationships and jurisdictional cost allocation factors.”⁴

The CPUC agrees with the FCC that responses to the data request will provide valuable information regarding potential reform of the separations process.⁵ Such information will also assist the CPUC as it monitors the deployment of broadband infrastructure and the offering of advanced communications services in California. This monitoring process will aid the CPUC in developing policies and procedures to facilitate the rapid deployment of broadband facilities, the offering of advanced services, and the development of other new technologies. For example, most of California’s universal service programs⁶ are currently funded through various surcharges

³ See Draft Data Request.

⁴ *FNPRM* at para. 31 (citing Federal Communications Commission, Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested, 70 Fed. Reg. 11971, 11972 (March 10, 2005)).

⁵ In the *FNPRM*, the FCC states that it “continue[s] to believe that the information derived from such a data request will be useful in assisting the Commission as it contemplates comprehensive separations reform.” *FNPRM* at para. 31.

⁶ The CPUC is currently undertaking a comprehensive review of all aspects of its universal service

on end-users' bills for their use of intrastate services.⁷ How carriers separate their revenues between the interstate and intrastate jurisdictions clearly affects the funding of these programs. Issuance of the draft data request would enable the CPUC to better coordinate any separations reform with meeting the public policy goals of California's universal service programs.

Some parties suggest that complying with the information request would require significant resources that outweigh the benefits of issuing the data request.⁸ AT&T, for example, states that "it is impossible to respond to most of the questions without developing and conducting complicated separations and usage studies."⁹ This is contradicted by observations of other commenters and the FCC itself. Indeed, USTA argues that "the Commission already has much of the requested data," and instead asserts

(or public purpose) programs. *See* Rulemaking on Commission's Own Motion to Review the Telecommunications Public Policy Programs, R.06-05-028 (May 30, 2006); Order Instituting Rulemaking into the Review of the California High Cost Fund B Program, R.06-06-028 (June 30, 2006).

⁷ One exception is that surcharges on payphone providers are intended to fund California's payphone programs.

⁸ *See, e.g.*, Comments of AT&T Inc. (AT&T Comments) at 10; Comments of the Independent Telephone and Telecommunications Alliance, National Exchange Carrier Association, Inc., National Telecommunications Cooperative Association, Organization for the Promotion and Advancement of Small Telecommunications Companies, and the Eastern Rural Telecom Association (Association Comments) at 12-14; Comments of Qwest Corporation at 16-23; Comments of John Staurulakis, Inc. at 9-10; Comments of the United States Telecom Association (USTA Comments) at 9-10, and; Comments of Verizon (Verizon Comments) at 18. Two parties representing carriers that would presumably be respondents to the data request filed comments but did not object to or otherwise comment on issuance of the data request. *See* Comments of BellSouth Corporation; Comments of the Western Telecommunications Alliance (a trade association representing "approximately 250 rural telephone companies operating west of the Mississippi River").

⁹ AT&T Comments at 10.

that the FCC “should not require carriers to repackage it.”¹⁰ In its objections to the data request, the Associations specifically refer to a previous FCC data request “covering, in

¹⁰ USTA Comments at 9-10.

part, issues related to broadband deployment and UNE offerings.”¹¹ Finally, the FCC itself observes in the *FNPRM* that, “[b]ecause LECs already retain most of the requested information pursuant to Parts 32, 36, 64, and 69 of the Commission’s rules, we believe that the request should not be unduly burdensome.”¹²

No party specifically refutes the FCC’s statement that “most of the requested information” is already retained by LECs, but some commenters focus instead on responses to the draft data request that may require speculation.¹³ For example, AT&T highlights certain questions about Internet traffic, indicating that the carrier could only make “educated guesses” about these issues.¹⁴ The CPUC notes, however, that the questions about Internet traffic focus primarily on information that is already available to carriers. In particular, the initial questions commence with the modifier, “If you have reliable information,” even then asking only for “estimates” about Internet traffic. Clearly, issuance of the data request would not require carriers to conduct separations or other studies in order to respond to such questions.

¹¹ Association Comments at 13-14. The Associations also argue, however, that the FCC “should not at this time initiate a separate data collection process covering the same topics.” *Id.* at 14.

¹² *FNPRM* at para. 32.

¹³ See, e.g., AT&T Comments at 10; Association Comments at 13.

¹⁴ AT&T Comments at 10 (referring to Draft Data Request at Section I (capital letter of “i”)).

III CONCLUSION

For all of the foregoing reasons, the CPUC supports the FCC's immediate issuance of the draft data request.

Respectfully submitted,

RANDOLPH WU
HELEN M. MICKIEWICZ
NATALIE D. WALES

By: /s/ NATALIE D. WALES

Natalie D. Wales

Attorneys for the
Public Utilities Commission

California Public Utilities Commission
505 Van Ness Ave.
San Francisco, CA 94102
Phone: (415) 355-5490
Fax: (415) 703-2262

ndw@cpuc.ca.gov

November 20, 2006